

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 474 OF 2024
IN
REVISION APPLICATION (ST) NO. 20408 OF 2023

Narayan Chindhuji Kshirsagar ...Applicant

vs.

Bhikamchand Parasmal Jain ...Respondent

Mr. R. L. Majgaonkar - Advocate for the Applicant

Mr. H. J. Dedhia - APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 06th FEBRUARY, 2024

P. C. :-

1. Heard learned Advocate for the Applicant.
2. There is a judgment of the acquittal passed by the Court of the JMFC, Bhiwandi dated 03/02/2023, at page no. 103. Two accused were acquitted for the offence punishable under Sections 454, 457 and 380 read with 34 of the Indian Penal Code. The present Applicant is first informant. Police have filed charge-sheet. There is delay 105 days in filing Criminal Revision Application.
3. In fact for two reasons, the Applicant has approached this Court

by way of wrong forum. Reasons are as follows :-

- (i) If there is judgment of the acquittal, there is separate appeal provided to the victim-first informant by way of proviso of Section 372 of the Criminal Procedure Code.
- (ii) As per Section 401 (4) of the Criminal Procedure Code, if there is remedy of the appeal, revision cannot be entertained.
- (iii) This is Police case and not complaint case as such provision of Section 378 (4) of the Criminal Procedure Code is not applicable.

4. There is remedy of the appeal as per proviso of the Section 372 of the Criminal Procedure Code. The forum for such an appeal is the Court before whom the appeal against conviction lies and in this case, it is acquittal by the Court of JMFC. So Appellate Court is Sessions Court.

5. In view of the above, the revision is not maintainable. Hence there is no question of condonation of delay.

6. Revision Application is disposed of as it is not maintainable.

Hence directions :-

- (i) Lastly, the Applicant is at liberty to approach the Court of the

Sessions at Thane.

(ii) He is at liberty to ask for condonation of delay on this premise.

7. Interim application also stands disposed of.

[S. M. MODAK, J.]